

**REMARKS**

By this Amendment claim 1 has been amended to include the feature of claim 15 (now canceled) and to further define the pharmaceutically acceptable oil (see specification at page 5, lines 26-29), and claims 2-14 and 16-22 have been amended to better comply with U.S. practice. Entry is requested.

In the outstanding Office Action the examiner has rejected claims 1-3, 9, 10, 12-17 and 22 under 35 U.S.C. 102(e) as being anticipated by Gladman et al., he has rejected claims 1, 2 and 4-8 under 35 U.S.C. 103(a) as being unpatentable over Gladman et al. in view of Wheeler, he has rejected claims 1 and 17-21 under 35 U.S.C. 103(a) being unpatentable over Gladman et al. in view of Metziger et al., and he has rejected claims 1, 10 and 11 under 35 U.S.C. 103(a) as being unpatentable over Gladman et al. in view of Leigh et al.

These rejections must now be withdrawn.

Gladman et al. disclose a discrete powder formed of particles of biliquid foam entrapped within a matrix of polymeric material, and a process for preparing the discrete powder. The biliquid foam preferably comprises 70 to 95% by weight of an oil phase and 5 to 30% by weight of a continuous phase, as well as other ingredients (e.g., surfactants). Possible oils are listed in paragraph 0020. Preparation 9, which is the only example that includes a drug (Ibuprofen), contained isopropyl myristate as the oil.

By amending claim 1 to define the pharmaceutically acceptable oil as including a mono-, di-, or triglyceride, or a mixture thereof, the examiner's anticipation rejection of claims 1-3, 9, 10, 12-17 and 22 under 35 U.S.C. 102(e) based on Gladman et al. must be withdrawn.

With respect to the other rejections based on 35 U.S.C. 103(a), the examiner is advised that the invention of Gladman et al. and the invention described and claimed in the present application were owned by a common entity when derived.

This will provide a basis for overcoming these rejections with the filing of a Terminal Disclaimer.

In this regard, Gladman et al. derives from GB application No. 0214793.2, filed 26 June 2002. A copy of this GB application is attached (a certified copy will be forwarded soon). It can be seen that it was filed in the name of Disperse Technologies PLC.

The present application derives from GB application No. 0317869.6, filed 30 July 2003. A copy of this GB application is attached (a certified copy will be forwarded soon). This application was filed in the name of Disperse Limited. Disperse Limited was a wholly-owned subsidiary of Disperse Technologies PLC. Note the attached Affidavit of Richard Twydell (a notarized original will be submitted soon).

Additional documentation will be forthcoming.

Respectfully submitted,

DYKEMA GOSSETT PLLC

By:

  
Richard H. Tushin

Registration No. 27,297

Franklin Square, Third Floor West

1300 I Street, N.W.

Washington, DC 20005-3353

(202) 906-8680